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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
PATEL, MANGLESH M	

ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/925,585	HOLLOWAY ET AL.	
	Examiner	Art Unit	
	Manglesh M. Patel	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-8,11-15 and 18-21* is/are pending in the application.

4a) Of the above claim(s) *2,3,9,10,16 and 17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-8,11-15 and 18-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This final office action is in response to the amendment filed November 10, 2005.

2. In the Amendment Claims 1-21 are pending. Claims 1, 8 and 15 are independent claims. Claims 2-3, 9-10 and 16-17 have been canceled.

Withdrawn Rejections

3. The examiner has withdrawn the 35 U.S.C. 101 rejections for claims 1-7 & 8-14.

4. The 35 U.S.C. 103(a) rejections of claims 1-21 have been withdrawn has necessitated by the Amendment.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majoor (U.S. Pub 2002/0029154, filed Sept 7, 2001) in view of Gupta (U.S. Pub 2002/0184265, filed May 30, 2001) further in view of Peters (U.S. 5,893,098, filed Dec 20, 1996) further in view of Plantec (U.S. 6,826,540, filed Dec 29, 1999).

Regarding Independent claims 1, 8 and 15, Majoor teaches *storing a survey document on a computer-readable medium of a first computer system, the*

survey document having questions and answers in a certain format for delivery over a network to a second computer system and for presenting ones of the survey document questions and answers for selecting by a user of the second computer (paragraphs 16 & fig 1, Wherein the survey is stored in the rule server that represents the first computer. The document is in a certain format (may be implemented using any well known programming language, paragraph 15) and contains questions and answers (paragraph 29) for presentation to a user for receiving a selection (paragraph 16). The user representing the second computer or client has shown in figure 2). Majoor fails to teach the questions and answers defined in markup tags where attributes define the association between the questions and answers. Gupta teaches *wherein according to the certain format of the survey document, the questions and answers are defined as data elements included in the survey document as strings of text surrounded by text markups, including tags describing the data elements and attributes defining associations among the questions and answers* (paragraph 19 & 24, wherein extensible markup language with tag definitions within a DTD are used for a question/answer generator. The DTD creates questions as an element, and answers to that question as an attribute to the question element. Therefore attributes are defining the association between the questions and answers). Gupta fails to teach the branching of the questions based on an answer. Peters teaches *including associations such that ones of the questions branch from ones of the answers* (column 5, lines 54-67 & column 6, lines 1-35, wherein A survey

document may include a string of questions linked to each other and the branched-to question may be asked if the remote user has given one or more predetermined answers to the string of questions and to the question to which the branched-to question is linked. Therefore the associations between the questions and answers include the branching of the question based on the answer). *And instructions for causing the second computer system to display on a user interface certain ones of the questions, including the first one of the questions, and branch to and display on the user interface the second and third ones of the questions, or else not branch to and display the second and third ones of the questions, responsive to an answer selected by the user and received by the second computer system for the first question and responsive to ones of the cross-references defining the associations among the first, second and third one of the questions* (column 5, lines 54-67 & column 6, lines 1-35 & column 15, lines 30-60, wherein a survey document may include a string of questions linked to each other and the branched-to question may be asked if the remote user has given one or more predetermined answers to the string of questions and to the question to which the branched-to question is linked. Therefore the associations between the questions and answers include the branching of the question based on the answer. In addition a screen presenting a branched-to question will not be presented by the display to the remote user unless he makes one or more predetermined answers to a previous question. Therefore based on the response it may or may not branch). Peters fails to teach

the parsing of the survey document into an array. Plantec teaches *storing programming instructions on a computer-readable medium of the first computer system, the programming instructions being for delivery over the network to the second computer system, including instructions for causing the second computer system to parse the data elements from the survey document into data arrays having cross-references defining the associations among questions and answers* (column 30, lines 19-42 & column 38, lines 33-48, wherein the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

Regarding Dependant claims 4, 11 and 18, Majoor fails to teach the use of a document type definition file. Gupta teaches *storing a data type definition file on a computer-readable medium of a first computer system, the data type definition file being for delivery over the network to the second computer system, wherein the programming instructions include instructions for causing the second*

computer system to validate the data elements responsive to the document type definition file (paragraph 24, Wherein a DTD is used to define the format of the document. Questions and answers are separated by the DTD, by elements and attributes respectively). Gupta fails to teach the branching of the questions based on an answer. Peters teaches the branching of the questions based on answers selected by the user (column 5, lines 54-67 & column 6, lines 1-35). Peters fails to teach the parsing of the survey document into an array. Plantec teaches the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed (column 30, lines 19-42 & column 38, lines 33-48). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

Regarding Dependant claims 5, 12 and 19, Majoor fails to teach the use of a browser for displaying the received information. Plantec teaches *wherein the programming instructions are included in a document that includes information for displaying by a browser running on the second computer system and*

directions for how the browser should display the information, and the programming instructions include instructions in an object oriented, interpreted, dynamic programming language (column 15, lines 1-11, Wherein a internet browser module is used to transfer information. The module may be coded in many different high-level languages such as C, C++, Java or Pascal). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the use of a browser described in an object oriented language. The motivation for doing so would have been to increase the portability for display within a browser by limiting the need for redesign. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

Regarding Dependant claims 6, 13 and 20, Majoor fails to Explicitly teach the use of Java programming language for describing the data displayed within a browser. Plantec explicitly teaches *wherein the programming language includes Java* (column 15, lines 6-11, Wherein The module may be coded in many different high-level languages such as C, C++, **Java** or Pascal). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the use of a browser described in java programming language. The motivation for doing so would have been to increase the portability for display within a browser by limiting the need for redesign. Therefore it would have been

obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

Regarding Dependant claims 7, 14 and 21, Majoor fails to teach the return of survey results in a markup language with tags and data elements. Gupta teaches *wherein the programming instructions include instructions for causing the second computer system to return survey results to the first computer system as a document defining the answers as data elements included in the survey document as strings of text surrounded by text markups, including tags, wherein the text markups describe the data elements* (paragraph 24, Wherein a markup language is used to describe the answer/questions with tags and data elements). Gupta fails to teach the branching of the questions based on an answer. Peters teaches the branching of the questions based on answers selected by the user (column 5, lines 54-67 & column 6, lines 1-35). Peters fails to teach the parsing of the survey document into an array. Plantec teaches the survey results consisting of questions/answers are stored in an array. In addition the script file containing the questions and answers is parsed (column 30, lines 19-42 & column 38, lines 33-48). At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the parsing of a document into an array. The motivation for doing so would have been to provide a more efficient data collection method for the conversion of the information into a form useful to

the survey sponsor. Therefore it would have been obvious to combine the teachings of Plantec with Peters, Gupta and Majoor for the benefits of allowing a more efficient and portable survey system capable of using previous answers for dynamically determining questions.

It is noted that any citation [[s]] to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. [[See, MPEP 2123]]

Response to Arguments

7. Applicant's arguments filed November 10, 2005 have been fully considered. The rejection of claims 1-21 have been withdrawn has necessitated by the amendment.

Applicant Argues:

The office action does not apply the law to the facts of the present application in such a way as to give an explanation of the grounds for rejection. Instead, the Office action simply states the law. Moreover, the Office action does not even contend it is more likely than not that the claims fail to define statutory subject matter.

The examiner has withdrawn the U.S.C. 101 rejection of all claims. For future reference when a program product is used in the preamble of the claim, it should be accompanied

by a computer-readable medium because a program is useless unless it can be used by the computer. Also the method claim states "A method for generating a survey for a client on a network, the method comprising the step of:" this previous claim was rejected because these steps describing the method can be done by pen/paper, a group of people could comprise a network. The newly amended claim clearly states that the method is implemented in a computer system thereby avoiding this situation. In addition the claims could be recited as a computer-implemented method and overcome the 101 rejection.

Applicant Argues:

> *The references do not teach or suggest that a survey document has data elements with the particularly claimed attributes of the present invention.*

However the examiner respectfully disagrees. The attributes define the relationship between the question and answers. Gupta teaches the use of attributes with the DTD for associating the question with answers (paragraph 19 & 24).

Applicant Argues:

> *The references do not teach or suggest a first computer storing, for delivery to a second computer, a survey document for presenting questions for a user of the second computer to select and instructions for parsing the survey document.*

However the examiner respectfully disagrees. Majoor teaches a first computer or rule server and a second computer or client that receives the survey for selection (paragraph 16). Plantec teaches the parsing of the document (column 30, lines 19-42 & column 38, lines 33-48).

Applicant Argues:

> *The references do not teach or suggest storing instructions on the first computer for delivery to the second computer, where the instructions cause the second computer to branch or not branch to questions in the particularly claimed manner of the present invention.*

This Amended claim has been addressed with new art Peters. Peters teaches the branching of the questions based on answers selected by the user (column 5, lines 54-67 & column 6, lines 1-35). The branching depends on the answer received by the user selection; therefore it may or may not branch.

Applicant Argues:

> *No proper motivation or suggestion has been shown for the combination of the cited references.*

However the examiner respectfully disagrees. All art are analogous since they are used to conduct a survey, in addition the combination clearly supplies a motivation for combining the references. Applicant's Independent claims describe an online survey to be presented to a user and based on their selection, the questions branch to other questions thereby eliminating irrelevant questions and saving time. The new art Peters clearly shows this as well for his motivation.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manglesh M. Patel whose telephone number is (571) 272-5937. The examiner can normally be reached on M, W 6 am-3 pm T, TH 6 am-2pm, Fr 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Manglesh M. Patel

Patent Examiner

January 12, 2006

CESAR PAULA
PRIMARY EXAMINER